

For the reasons stated in the following paragraph, Claim 14 has been cancelled without prejudice.

In the Official Action, the Examiner objected to claim 14 as being dependent upon a rejected base claim, but found that said claim would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Accordingly, base claim 12 has been amended to incorporate the limitations of former dependent claim 14 (which was directly dependent from base claim 12), and, as such, is believed to be allowable.

Applicant respectfully submits that the remaining claims dependent from allowable claim 12 are patentable under the doctrine established in *In re Fine*, 837 F.2d 1071, 5 USPQ.2d 1596 (Fed. Cir. 1988), which holds that dependent claims are patentable if the claims from which they depend are patentable. Accordingly, it is respectfully submitted that claims 13 and 15-19 are also in condition for allowance, and such action is courteously requested at this time.

Claim Rejections – 35 USC 102

Independent claim 1 was rejected under 35 USC 103(b) as being anticipated by Schiedegger *et al.* (US 5,850,717) and by Fragale (US 6,090,174). Claim 1 has been amended to more particularly point out and distinctly claim the subject matter that Applicants regard as their invention. For the following reasons, Applicants respectfully request the Examiner's reconsideration of said rejection in view of said once amended claim 1.

It is noted that Fragale '174 teaches a low gauge layer (preferably of metal)

laminated (preferably by adhesive) to a substrate material (preferably of foam). Such an arrangement is best described as a cladding (the low gauge layer) for overlying an otherwise substantially dissimilar brickmould substrate material (i.e., a thin, metal cladding adhered to a foam substrate). There is neither a teaching nor a suggestion within Fragale '174 that said device could be fabricated from a substantially solid rectangular portion of similar substrate to yield Applicants' invention: a solid brickmould having an integral j-channel formed therein; nor does Fragale '174 teach or suggest any motivation or advantage in doing so.

Similarly, Schiedegger *et. al.* '717 teaches a dentil mold, again of relatively thin, low gauge material, for overlying a similarly thin, low gauge similar material hanger member. For those same reasons discussed above with regard to Fragale '174, Schiedegger *et. al.* '717 neither teaches nor suggests that it could be fabricated from a substantially solid rectangular portion of similar substrate to yield applicants' invention. In fact, Schiedegger *et. al.* '717 is best described as forming, when assembled, a plurality of cavities between said overlying and hanger members. On the other hand, Applicants' device provides no similar voids within which moisture and other deleterious materials may be trapped. Accordingly, the brickmould of Applicant's invention represents a significant improvement over Schiedegger *et. al.* '717.

It is respectfully submitted for the Examiner's consideration that the invention of amended claim 1 is patentably distinct from the above-cited references and is not anticipated thereby. Accordingly, claim 1 is believed to be in condition for allowance and such action is courteously solicited at this time.

Applicant respectfully submits that the remaining claims dependent from allowable claim 1 are patentable under the doctrine established in *In re Fine*, 837 F.2d 1071, 5 USPQ.2d 1596 (Fed. Cir. 1988), which holds that dependent claims are patentable if the claims from which they depend are patentable. Accordingly, it is respectfully submitted that claims 2-11 are also in condition for allowance, and such action is courteously requested at this time.

The Applicants acknowledge receipt of, and express appreciation to the Examiner for forwarding, copies of the prior art made of record and not relied upon in this matter.

Attorney Change of Address

The Examiner is respectfully requested to take note of, and, if necessary, to enter, a change of correspondence address of the undersigned attorney for the applicant. Formal request for same has previously been filed with the Commissioner of Patents, Box CN, Washington, DC 20231; however, to avoid delays and inaccuracies in future correspondence, this information is also brought to the attention of the Examiner.

CONCLUSIONS

The aforementioned claims, as amended, are supported by the original disclosure as filed by the Applicants and, thus, do not add new matter to the above-referenced application.

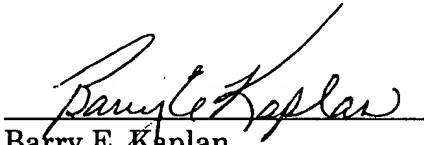
This Response is submitted as, and believed to be, a full and complete

response to the Office Action mailed on March 28, 2002.

The Applicant respectfully requests the Examiner's consideration, approval, and entry of the above amendments. In that claims 1-13 and 15-20 are believed to be allowable, issuance of the present application is respectfully solicited in light of the above amendments to the claims and these Remarks which have been responsive to the referenced Office Action.

Should there be any questions or concerns in this responsive amendment, the Examiner is invited to telephone Applicant's undersigned attorney.

Respectfully submitted, this 28th day of August, 2002.


Barry E. Kaplan
USPTO Reg. No. 38,934

MYERS & KAPLAN INTELLECTUAL PROPERTY LAW, LLC
1827 Powers Ferry Road
Building 3, Suite 200
Atlanta, Georgia 30339
Voice: (770) 541-7444
Facsimile: (770) 541-7448
Email: bkaplan@mkiplaw.com



COPY OF PAPERS
ORIGINALLY FILED

Patents
Serial Number: 09/759,579
Group Art Unit: 3635

ATTACHMENT A
CLAIM AMENDMENTS - MARKED-UP VERSION

1. (Once Amended) A brickmoulding for use on the
perimeter of windows and doors for receiving siding, comprising:

a solid rectangular portion comprising a width, a
length, said length being greater than said width, and a
thickness, said rectangular portion further comprising a bottom
surface and a top surface, said bottom surface for overlying a
building structure;

a flange portion carried in approximately parallel
relationship by said bottom surface of said rectangular portion,
said flange portion extending beyond said width of said
rectangular portion; and,

a channel for receiving siding, said channel being
formed between said flange portion and said top surface.

3. (Once Amended) The brickmoulding of claim 1 wherein
said channel further comprises therewithin a step portion
adjacent the bottom of said channel, whereby the channel so
formed ~~may~~ is adapted to cooperatively receive either of two
differing thicknesses of siding.

12. (Once Amended) A fenestration for receiving siding in association with an architectural structure, comprising:

a fenestration frame;

a brickmoulding affixed to said fenestration frame for receiving siding, comprising:

a rectangular portion comprising a width, a length, said length being greater than said width, and a thickness, said rectangular portion further comprising a bottom surface and a top surface, said bottom surface for overlying a building structure;

a flange portion carried in approximately parallel relationship by said bottom surface of said rectangular portion, said flange portion extending beyond said width of said rectangular portion; and,

a channel for receiving siding, said channel being formed between said flange portion and said top surface;

said channel further comprising therewithin a step portion adjacent the bottom of said channel, whereby the channel so formed is adapted to cooperatively receive either of two differing thicknesses of siding.

14. [Cancelled without prejudice] ~~The fenestration of claim 12 wherein said channel further comprises therewithin a step portion adjacent the bottom of said channel, whereby the channel so formed may cooperatively receive either of two differing thicknesses of siding.~~

20. (Once Amended) A brickmoulding for use on the perimeter of windows and doors for receiving siding, comprising: a rectangular portion comprising a width, a length, said length being greater than said width, and a thickness, said rectangular portion further comprising a bottom surface and a top surface, said bottom surface for overlying a building structure, said top surface optionally further comprising a decorative portion extending from and carried by said top surface; a flange portion carried in approximately parallel relationship by said bottom surface of said rectangular portion, said flange portion extending beyond said width of said rectangular portion; and, a channel for receiving siding, said channel being formed between said flange portion and said top surface, said channel further comprising therewithin a step portion adjacent the bottom of said channel, whereby the channel so formed ~~may~~ is adapted to cooperatively receive either of two differing thicknesses of siding.